



COMMONWEALTH of VIRGINIA
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June 3, 2004

Dr. Jo Lynne DeMary
Superintendent of Public Instruction
Department of Education
Monroe Building
101 North 14th Street
Richmond, VA 23219

**Re: Repeal of Regulations Governing Retention Schedule for
Uniform Pupil Accounting Records
(8 VAC 20-140-10)**

Dear Dr. DeMary:

You ask whether the Virginia Board of Education possesses the requisite statutory authority to repeal the above Regulations Governing Retention Schedule for Uniform Pupil Accounting Records, 8 VAC 20-140-10.

Section 22.1-1-16 vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. No doubt the Board had the requisite authority originally to promulgate these regulations. The General Assembly has subsequently authorized the State Library Board to issue regulations governing the management (including retention) of public records by "agencies," which include boards and departments of political subdivisions. *See* § 42.1-82 of the *Code of Virginia*. As a result, the continuing authority of the Board of Education over this area is suspect, and the regulations unnecessary. Repeal of these regulations is an appropriate and advisable course of action.

The foregoing represents my view and does not constitute an official opinion of the Attorney General. If you require additional assistance from me on this matter, please do not hesitate to contact me.

Sincerely,

Deborah Love Feild
Senior Assistant Attorney General

